

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA

3 UNITED STATES OF AMERICA,)
4)
5)
6 PLAINTIFF,)
7)
8 VS) CASE NO. 5:07-CR-117-2-BR
9)
10)
11)
12 MICHAEL YOUNG,)
13)
14)
15 DEFENDANT.)
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25)

EX PARTE HEARING

MAY 4, 2009

HONORABLE WILLIAM A. WEBB, PRESIDING

APPEARANCES:

MR. SAMUEL J. RANDALL
ATTORNEY AT LAW
(FOR THE DEFENDANT)

SHARON K. KROEGER, COURT REPORTER
MACHINE SHORTHAND REPORTER, COMPUTER AIDED TRANSCRIPTION

1 THE COURT: THIS IS THE TIME FOR THE HEARING ON
2 THE DEFENDANT'S MOTION IN THE CASE OF UNITED STATES OF
3 AMERICA VERSUS MICHAEL YOUNG.

4 MR. RANDALL, ONE OF THE THINGS THAT WOULD HAVE
5 BEEN HELPFUL IN YOUR MOTION IS IF YOU HAD CITED THE
6 AUTHORITY THAT PERMITS A JUDGE TO APPOINT A SECOND
7 ATTORNEY. I FOUND IT, BUT I SHOULDN'T HAVE HAD TO LOOK.

8 JUDGE BRITT HAS ASKED ME TO MAKE A
9 RECOMMENDATION TO HIM WHETHER WE SHOULD GRANT YOUR
10 MOTION, AND I WOULD LIKE TO GO THROUGH A COUPLE OF THINGS
11 WITH YOU AND THEN GIVE YOU A CHANCE TO PUT ANYTHING THAT
12 YOU WANT ON THE RECORD.

13 MR. RANDALL: YES, YOUR HONOR.

14 THE COURT: WOULD YOU DESCRIBE YOUR LAW FIRM?
15 THAT IS, HOW MANY EMPLOYEES AND WHAT TYPES -- AND YOU CAN
16 REMAIN SEATED THROUGHOUT THIS.

17 MR. RANDALL: YES, SIR. I AM A SOLE
18 PRACTITIONER. MY OFFICE IS A CORPORATION; HOWEVER, IT'S
19 JUST MYSELF AS AN ATTORNEY AND I HAVE A SECRETARY.

20 THE COURT: WHAT WAS THE DATE ON WHICH YOU WERE
21 APPOINTED?

22 THE DEFENDANT: I BELIEVE IT WAS BACK IN
23 DECEMBER OF '08. I AM NOT EXACTLY SURE.

24 THE COURT: WHEN DID YOU FIRST MEET WITH YOUR
25 CLIENT?

1 MR. RANDALL: IT WOULD HAVE BEEN SHORTLY AFTER
2 MY APPOINTMENT.

3 THE COURT: HOW MANY MEETINGS HAVE YOU HAD WITH
4 HIM?

5 MR. RANDALL: PROBABLY HAD AT LEAST 15 MEETINGS
6 THUS FAR.

7 THE COURT: TITLE 18 UNITED STATES CODE SECTION
8 3006(A)(E)(1) PERMITS AN ATTORNEY WHO IS APPOINTED TO
9 REPRESENT AN INDIGENT CLIENT TO APPLY FOR INVESTIGATIVE
10 EXPERT OR OTHER SERVICES. HAVE YOU AVAILED YOURSELF OF
11 THAT PROVISION?

12 MR. RANDALL: YOUR HONOR, UP TO THIS POINT WE
13 HAVEN'T NEEDED AN INVESTIGATOR. I HAVE STILL BEEN GOING
14 THROUGH JUST VOLUMINOUS BOXES OF DISCOVERY. WE REQUESTED
15 AND RECEIVED THE TRIAL TRANSCRIPT FROM THE CO-DEFENDANTS
16 TRIAL. WE HAVE BEEN GOING THROUGH THAT JUST TRYING TO
17 GET A HANDLE ON IT.

18 IF I MAY BRIEFLY DESCRIBE THE CASE --

19 THE COURT: I AM GOING TO GIVE YOU A CHANCE TO
20 SAY WHATEVER YOU WANT TO SAY, BUT THERE ARE SOME THINGS
21 --

22 MR. RANDALL: YES, SIR.

23 THE COURT: SO YOU HAVE NOT ASKED FOR EXPERTS
24 OR ANYBODY AND YOU DON'T FEEL YOU NEED AN EXPERT TO HELP
25 YOU WITH THE MATERIALS; THAT IS, ACCOUNTANTS OR FORENSIC

1 ACCOUNTANTS OR ANY OF THIS SORT?

2 MR. RANDALL: PROBABLY NOT A FORENSIC
3 ACCOUNTANT, NO, YOUR HONOR. AT SOME POINT, WE MAY NEED
4 AN INVESTIGATOR TO HELP ASSIST LOCATE A FEW WITNESSES.
5 THERE ARE WITNESSES IN THE STATE OF CALIFORNIA,
6 WASHINGTON, D.C., AND OTHER PLACES.

7 THE COURT: BUT AS TO NOW, YOU HAVE NOT MADE
8 ANY REQUEST FOR ANY SERVICES?

9 MR. RANDALL: NO, SIR.

10 THE COURT: HAVE YOU FINISHED YOUR REVIEW OF
11 THE TRIAL TRANSCRIPT OF THE TRIAL OF THE CO-DEFENDANTS?

12 MR. RANDALL: YES, SIR.

13 THE COURT: HAVE YOU REVIEWED THE EXHIBITS FROM
14 THAT CASE; THAT IS, WHAT THE GOVERNMENT ACTUALLY
15 INTRODUCED INTO EVIDENCE?

16 MR. RANDALL: I HAVE REVIEWED A PORTION OF IT,
17 YES, SIR.

18 THE COURT: IN YOUR -- LET'S START WITH THE
19 CASE THAT IS COMING UP SHORTLY. WERE YOU APPOINTED OR
20 RETAINED IN THE FIRST DEGREE MURDER TRIAL IN THE STATE
21 COURT THAT YOU HAVE RECENTLY COMPLETED?

22 MR. RANDALL: YOUR HONOR, THAT WAS AN APPOINTED
23 CASE.

24 THE COURT: WERE YOU APPOINTED BEFORE OR AFTER
25 YOUR APPOINTMENT OF THIS CASE?

1 MR. RANDALL: BEFORE.

2 THE COURT: YOU MENTIONED IN THE MOTION THAT
3 YOU HAVE HAD OTHER CAPITAL CASES OR MURDER CASES COMING
4 UP; IS THAT CORRECT?

5 MR. RANDALL: IF I CAN CLARIFY, NOT OTHER
6 CAPITAL CASES, YOUR HONOR. ON MONDAY NEXT WEEK, I START
7 A STATE COURT DRUG TRAFFICKING CASE. THAT ONE AGAIN IS
8 AN APPOINTED CASE.

9 THE COURT: WAS IT APPOINTED BEFORE OR AFTER
10 THIS CASE?

11 MR. RANDALL: IT WAS BEFORE THIS CASE.

12 THEN ON JUNE 1, I AM SCHEDULED TO START A
13 MATTER BEFORE JUDGE BRITT, UNITED STATES VERSUS HENRY
14 BLAKE, JR. THAT IS A MORTGAGE FRAUD CASE. I BELIEVE I
15 WAS APPOINTED ABOUT THE SAME TIME AS MR. YOUNG, PERHAPS
16 AFTER MR. YOUNG'S CASE.

17 AND THEN THE THIRD CASE IS UNITED STATES VERSUS
18 MR. DANIEL TARAZAR BEFORE THE HONORABLE JUDGE FOX WHICH
19 IS ANOTHER DRUG TRAFFICKING CASE.

20 ALL THREE WERE APPOINTED.

21 THE COURT: I GUESS THE ONLY QUESTION I WOULD
22 ASK IS IN RETROSPECT DO YOU STILL CONSIDER IT WISE TO
23 HAVE ACCEPTED ALL OF THESE CASES GIVEN THE LIMITATIONS OF
24 YOUR LAW FIRM?

25 MR. RANDALL; WELL, YOUR HONOR, MR. YOUNG'S

1 CASE, UP UNTIL THIS POINT -- AND WE HAVE UNTIL WEDNESDAY
2 FOR HIM TO ACCEPT AN OFFER THAT HAS BEEN EXTENDED TO HIM
3 -- I REASONABLY BELIEVED THAT ALL OF THESE COULD HAVE
4 BEEN HANDLED AND I STILL BELIEVE THAT THEY CAN BE
5 HANDLED. THE PROBLEM IS THIS. WITH THE BUDGET OF THE
6 STATE AND THE NUMBER OF FEDERAL CASES I HAD DONE BEFORE,
7 I AM STILL AWAITING PAYMENT ON A NUMBER OF PANEL CASES
8 AND A NUMBER OF STATE COURT CASES.

9 THE COURT: HOW WOULD THAT HAVE MADE A
10 DIFFERENCE IN THIS CASE?

11 MR. RANDALL: IF THIS CASE GOES TO TRIAL, IT
12 WILL BE PROBABLY A TWO WEEK JURY TRIAL. PREPARATION FOR
13 THAT IS PROBABLY GOING TO TAKE FOUR STRAIGHT WEEKS OF
14 NOTHING BUT MR. YOUNG'S CASE. SO THAT, IN ESSENCE,
15 CLOSED MY PRACTICE FOR SIX WEEKS WHERE I STILL HAVE THE
16 SECRETARY TO DEPEND ON GETTING PAID. I WOULDN'T BE ABLE
17 TO GENERATE ANY OTHER INCOME. THE PAYMENT FOR MR.
18 YOUNG'S CASE, EVEN IN THE BEST CASE, IF HE WERE FOUND NOT
19 GUILTY, WOULD THEN STILL NOT COME, BECAUSE IT WOULD NEED
20 TO GO TO THE FOURTH CIRCUIT FOR PERHAPS MONTHS WHICH,
21 AGAIN, I WOULD HAVE LAG TIME THERE.

22 AN ALTERNATIVE TO APPOINTING AN ADDITIONAL
23 COUNSEL, YOUR HONOR, COULD BE AN INTERIM PAYMENT. IN
24 LOOKING AT THE CJA GUIDELINES, THAT MIGHT BE AN
25 APPROPRIATE ALTERNATIVE.

1 THE COURT: WELL, HOW WOULD THINGS CHANGE WITH
2 A CONTINUANCE WITH RESPECT TO FOUR WEEKS PREPARATION IF
3 YOUR CLIENT DOES NOT ACCEPT THE GUILTY PLEA AND WOULDN'T
4 YOU ALWAYS BE IN THE SAME POSITION? YOU WOULD HAVE FOUR
5 WEEKS THAT YOU WOULD HAVE TO PREPARE.

6 MR. RANDALL: YES, SIR. WITH AN ADDITIONAL --
7 WITH AN ADDITIONAL COUNSEL, WE COULD SPLIT THE WORK UP,
8 THUS ALLOWING ME TO CONTINUE GENERATING INCOME FOR MY
9 OFFICE. OR, WITH THE INTERIM PAYMENTS, I WOULD BE ABLE
10 TO STILL HAVE AN INCOME STREAM WHILE SOLELY DEVOTING MY
11 PRACTICE TO MR. YOUNG'S CASE.

12 THE COURT: I TOLD YOU EARLIER I WOULD ALLOW
13 YOU A CHANCE TO SAY ANYTHING YOU WANT TO SAY.

14 MR. RANDALL: YES, SIR.

15 THE COURT: AND THIS IS THAT OPPORTUNITY.

16 MR. RANDALL: YES, YOUR HONOR. JUST BRIEFLY
17 FOR THE COURT, MR. YOUNG'S CASE STEMS FROM A COMPANY
18 ENTITLED MOBILE BILLBOARDS OF AMERICA. IT'S ALLEGED THAT
19 MOBILE BILLBOARDS OF AMERICA, ITS SUBSIDIARIES, AND
20 VARIOUS OTHER SUBCORPORATIONS, I GUESS IS THE BEST WAY TO
21 DESCRIBE IT, TARGETED SENIOR CITIZENS TO INVEST IN
22 OUTDOOR ADVERTISING.

23 AS A RESULT OF THAT, IT'S ALLEGED THAT THEY
24 HAVE COMMITTED ABOUT 70 MILLION DOLLARS WORTH OF FRAUD.
25 THE GOVERNMENT, IN THEIR TRIAL WITH THE CO-DEFENDANTS,

1 LASTED ABOUT THREE WEEKS. MR. YOUNG WAS IN THE UNITED
2 ARAB EMIRATES AT THAT TIME AND FAILED TO APPEAR. THAT'S
3 THE SECOND INDICTMENT AGAINST HIM FOR THAT.

4 IN GOING THROUGH THE MATERIALS, THERE ARE AT
5 LEAST SIX CORPORATIONS AND HOW THEY INTERACT, AND IT HAS
6 TAKEN AWHILE TO JUST KIND OF GRASP WHAT IT WAS THEY WERE
7 DOING AND HOW THE FRAUD ITSELF CAME INTO BEING.

8 AS I SAID, THERE ARE A NUMBER OF DOCUMENTS.
9 THERE ARE PROBABLY 50 BOXES OF JUST LIMITED RELEVANT
10 MATERIAL, BUT WE SILL HAVE TO GO THROUGH THEM TO MAKE
11 SURE THAT THERE IS NOTHING IN THERE THAT COULD HELP MR.
12 YOUNG.

13 HIS POSITION OF THE CORPORATION WAS THAT OF THE
14 PRESIDENT. HE WAS ALSO THE ADMINISTRATIVE OFFICER OF
15 THIS TRUST THAT WAS SET UP. AT THE TRIAL, ONE OF THE
16 CO-DEFENDANTS WAS FOUND NOT GUILTY. THAT WAS MR. BARRY
17 MALONEY. I HAVE BEEN IN CONTACT WITH HIS COUNSEL TO SEE
18 WHAT, IF ANYTHING, MAY BE -- THEY MAY BE ABLE TO DO TO
19 ASSIST IN MR. YOUNG'S DEFENSE. HOWEVER, THEY HAVE BEEN
20 UNWILLING TO ASSIST OR SHED LIGHT ON ANYTHING THAT THEY
21 MAY POSSESS.

22 I HAVE TRIED TO BUDGET MY TIME TO MR. YOUNG'S
23 CASE AS BEST AS POSSIBLE THROUGHOUT MY REPRESENTATION,
24 SPENDING WEEKENDS REVIEWING MATERIALS, JUST EVERYTHING I
25 CAN. IT HAS GOTTEN TO THE POINT WHERE IF WE ARE GOING TO

1 TRIAL, AS I INDICATED, IT WOULD BASICALLY TAKE OVER MY
2 ENTIRE PRACTICE.

3 THE COURT: ASSUMING YOU WERE GOING TO TRIAL
4 AND ASSUMING THAT JUDGE BRITT WERE WILLING TO GRANT A
5 CONTINUANCE AFTER THE APPOINTMENT OF A SECOND ATTORNEY,
6 HOW MUCH TIME WOULD YOU NEED?

7 MR. RANDALL: WELL, YOUR HONOR, AT THIS POINT,
8 I ANTICIPATE IF WE WERE ALLOWED A SECOND ATTORNEY, I AM
9 NOT NECESSARILY SURE THAT WE WOULD NEED A CONTINUANCE.

10 THE COURT: WELL, ARE YOU REPRESENTING THAT YOU
11 NOW --

12 MR. RANDALL: I MEAN, THAT IS MY HOPE. MY HOPE
13 IS TO NOT STRETCH THIS OUT. THE CASE HAS BEEN GOING ON
14 NOW -- THE CO-DEFENDANTS LAST --

15 THE COURT: BUT YOUR CLIENT WAS A FUGITIVE.

16 MR. RANDALL: YES, SIR.

17 THE COURT: SO THIS CASE HASN'T STRETCHED OUT
18 AS TO HIM EXCEPT AS WITH RESPECT TO HIS FAILURE TO --

19 MR. RANDALL: YES, SIR.

20 THE COURT: -- TO MAKE HIMSELF AVAILABLE AS HE
21 PROMISED WHEN I RELEASED HIM.

22 MR. RANDALL: YES, SIR.

23 THE COURT: I KNOW ONE OF THE THINGS JUDGE
24 BRITT IS GOING TO BE CONCERNED ABOUT IS IF, IN FACT, A
25 SECOND ATTORNEY IS APPOINTED, WILL THAT OBVIATE THE NEED

1 FOR A CONTINUANCE.

2 WHEN IS THE CASE SET FOR TRIAL CURRENTLY?

3 MR. RANDALL: I BELIEVE IT'S PEREMPTORILY SET
4 FOR THE 7TH OF JULY.

5 THE COURT: SO THERE IS, IN FACT, ENOUGH TIME
6 TO PREPARE A CASE IF AN ATTORNEY IS NEEDED OR AS IT'S
7 SCHEDULED.

8 MR. RANDALL: YES, YOUR HONOR. THAT WAS MY
9 HOPE, THAT BY DOING AT THIS POINT, MY HOPE IF THAT WE
10 RESOLVE THIS CASE BY WAY OF PLEA, THUS MOOTING THE ISSUE
11 ENTIRELY.

12 HOWEVER, IF NOT, WITH THE ASSISTANCE OF AN
13 ADDITIONAL ATTORNEY, I WOULD HOPE WE COULD GET EVERYTHING
14 PREPARED SO THAT WE WOULD NOT HAVE TO MOVE TO CONTINUE
15 THE JULY 7 DATE.

16 THE COURT: I AM LOOKING FOR THE DATE YOU WERE
17 ACTUALLY APPOINTED SO I COULD PUT THAT ON THE RECORD.
18 LET'S SEE. BRIDGETT AGUIRRE FILED A MOTION TO WITHDRAW
19 ON NOVEMBER 20, 2007. THAT MOTION WAS DENIED WITHOUT
20 PREJUDICE ON NOVEMBER 27, 2007.

21 I AM SURE THERE IS AN EASIER WAY TO DO THIS. I
22 JUST DON'T KNOW.

23 ON JANUARY 7, 2008, MS. AGUIRRE RENEWED HER
24 MOTION TO WITHDRAW AND THAT MOTION WAS GRANTED BY JUDGE
25 BRITT. THERE WAS AN ORAL MOTION AND IT WAS GRANTED THE

1 SAME DAY.

2 THE PUBLIC DEFENDER WAS APPOINTED ON NOVEMBER
3 7, 2008. AND YOU WERE APPOINTED OR ENTERED A NOTICE OF
4 APPEARANCE ON NOVEMBER 10, 2008.

5 MR. RANDALL: YES, YOUR HONOR.

6 THE COURT: UNLESS THERE IS SOMETHING ELSE YOU
7 WOULD LIKE TO PUT ON THE RECORD, I THINK THAT PRETTY MUCH
8 GIVES ME EVERYTHING I NEED TO DO A MEMORANDUM AND
9 RECOMMENDATION TO JUDGE BRITT.

10 MR. RANDALL: THANK YOU.

11 THE COURT: THANK YOU. WE'LL STAND IN RECESS.

12 (WHEREUPON, THE PROCEEDINGS WERE ADJOURNED.)
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CERTIFICATE

THIS IS TO CERTIFY THAT THE FOREGOING
TRANSCRIPT OF PROCEEDINGS TAKEN IN THE UNITED STATES
DISTRICT COURT IS A TRUE AND ACCURATE TRANSCRIPTION OF
THE SHORTHAND NOTES OF THE PROCEEDINGS TAKEN BY ME IN
MACHINE SHORTHAND AND TRANSCRIBED BY COMPUTER UNDER MY
SUPERVISION.

DATED THIS 4TH DAY OF MAY, 2009.

/S/ SHARON K. KROEGER
COURT REPORTER